

Bureau of Indian Affairs, Interior

§ 162.615

waive all or part of these administrative fees, in our discretion.

(e) If all or part of the expenses of the work are paid from tribal funds, the tribe may establish an additional or alternate schedule of fees.

§ 162.612 Can a lease provide for negotiated remedies in the event of a violation?

(a) A lease of tribal land may provide the tribe with certain negotiated remedies in the event of a lease violation, including the power to terminate the lease. A lease of individually-owned land may provide the individual Indian landowners with similar remedies, so long as the lease also specifies the manner in which those remedies may be exercised by or on behalf of the landowners.

(b) The negotiated remedies described in paragraph (a) of this section will apply in addition to the cancellation remedy available to us under § 162.619(c) of this subpart. If the lease specifically authorizes us to exercise any negotiated remedies on behalf of the Indian landowners, the exercise of such remedies may substitute for cancellation.

(c) A lease may provide for lease disputes to be resolved in tribal court or any other court of competent jurisdiction, or through arbitration or some other alternative dispute resolution method. We may not be bound by decisions made in such forums, but we will defer to ongoing proceedings, as appropriate, in deciding whether to exercise any of the remedies available to us under § 162.619 of this subpart.

§ 162.613 Will BIA notify a tenant when a rent payment is due under a lease?

We may issue bills or invoices to a tenant in advance of the dates on which rent payments are due under a lease, but the tenant's obligation to make such payments in a timely manner will not be excused if such bills or invoices are not delivered or received.

§ 162.614 Will untimely rent payments made under a lease be subject to interest charges or late payment penalties?

A lease must specify the rate at which interest will accrue on any rent

payment not made by the due date or any other date specified in the lease. A lease may also identify additional late payment penalties that will apply if a rent payment is not made by a specified date. Unless otherwise provided in the lease, such interest charges and late payment penalties will apply in the absence of any specific notice to the tenant from us or the Indian landowners, and the failure to pay such amounts will be treated as a lease violation under § 162.618 of this subpart.

§ 162.615 What will BIA do if rent payments are not made in the time and manner required by a lease?

(a) A tenant's failure to pay rent in the time and manner required by a lease will be a violation of the lease, and a notice of violation will be issued under § 162.618 of this subpart. If the lease requires that rent payments be made to us, we will send the tenant and its sureties a notice of violation within five business days of the date on which the rent payment was due. If the lease provides for payment directly to the Indian landowners, we will send the tenant and its sureties a notice of violation within five business days of the date on which we receive actual notice of non-payment from the landowners.

(b) If a tenant fails to provide adequate proof of payment or cure the violation within the requisite time period described in § 162.618(b) of this subpart, and the amount due is not in dispute, we may immediately take action to recover the amount of the unpaid rent and any associated interest charges or late payment penalties. We may also cancel the lease under § 162.619 of this subpart, or invoke any other remedies available under the lease or applicable law, including collection on any available bond or referral of the debt to the Department of the Treasury for collection. An action to recover any unpaid amounts will not be conditioned on the prior cancellation of the lease or any further notice to the tenant, nor will such an action be precluded by a prior cancellation.

(c) Partial payments and underpayments may be accepted by the Indian landowners or us, but acceptance will not operate as a waiver with respect to any amounts remaining unpaid or any

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other existing lease violations. Unless otherwise provided in the lease, overpayments may be credited as an advance against future rent payments, or refunded.

(d) If a personal or business check is dishonored, and a rent payment is therefore not made by the due date, the failure to make the payment in a timely manner will be a violation of the lease, and a notice of violation will be issued under § 162.618 of this subpart. Any payment made to cure such a violation, and any future payments by the same tenant, must be made by an alternative payment method approved by us.

§ 162.616 Will any special fees be assessed on delinquent rent payments due under a lease?

The following special fees will be assessed if rent is not paid in the time and manner required, in addition to any interest or late payment penalties that must be paid to the Indian landowners under a lease. The following special fees will be assessed to cover administrative costs incurred by the United States in the collection of the debt:

The tenant will pay * * *	For * * *
(a) \$50.00	Administrative fee for dishonored checks.
(b) \$15.00	Administrative fee for BIA processing of each notice or demand letter.
(c) 18% of balance due.	Administrative fee charged by Treasury following referral for collection of delinquent debt.

§ 162.617 How will BIA determine whether the activities of a tenant under a lease are in compliance with the terms of the lease?

(a) Unless a lease provides otherwise, we may enter the leased premises at any reasonable time, without prior notice, to protect the interests of the Indian landowners and ensure that the tenant is in compliance with the operating requirements of the lease.

(b) If an Indian landowner notifies us that a specific lease violation has occurred, we will initiate an appropriate investigation within five business days of that notification.

§ 162.618 What will BIA do in the event of a violation under a lease?

(a) If we determine that a lease has been violated, we will send the tenant and its sureties a notice of violation within five business days of that determination. The notice of violation must be provided by certified mail, return receipt requested.

(b) Within ten business days of the receipt of a notice of violation, the tenant must:

- (1) Cure the violation and notify us in writing that the violation has been cured;
- (2) Dispute our determination that a violation has occurred and/or explain why we should not cancel the lease; or
- (3) Request additional time to cure the violation.

§ 162.619 What will BIA do if a violation of a lease is not cured within the requisite time period?

(a) If the tenant does not cure a violation of a lease within the requisite time period, we will consult with the Indian landowners, as appropriate, and determine whether:

- (1) The lease should be canceled by us under paragraph (c) of this section and §§ 162.620 through 162.621 of this subpart;
- (2) We should invoke any other remedies available to us under the lease, including collecting on any available bond;
- (3) The Indian landowners wish to invoke any remedies available to them under the lease; or
- (4) The tenant should be granted additional time in which to cure the violation.

(b) If we decide to grant a tenant additional time in which to cure a violation, the tenant must proceed diligently to complete the necessary corrective actions within a reasonable or specified time period from the date on which the extension is granted.

(c) If we decide to cancel the lease, we will send the tenant and its sureties a cancellation letter within five business days of that decision. The cancellation letter must be sent to the tenant by certified mail, return receipt requested. We will also provide actual or constructive notice of a cancellation decision to the Indian landowners, as